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Attorneys for DEFENDANT GERALD ARMSTRONG

FILED

MAY 07 1992

*Handwritten initials*

CLERK

BY MARGARITA REINOSO, DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California  
not-for-profit religious  
corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1  
through 25, inclusive,

Defendants.

) CASE NO. BC 052 395  
) (Marin County Sup. Ct.  
) Case No. 152 229

) REQUEST FOR JUDICIAL  
) NOTICE AND APPLICATION  
) OF COLLATERAL ESTOPPEL

)  
)  
) DATE: 5/14/92  
) TIME: 8:30 A.M.  
) DEPT: 86

) No Trial Date  
) No Discovery Cut-off  
) No Motions Cut-off  
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HUB LAW OFFICES

Attorneys for DEFENDANT GERALD ARMSTRONG

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY	)	CASE NO. BC 052 395
INTERNATIONAL, a California	)	(Marin County Sup. Ct.
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	)	REQUEST FOR JUDICIAL
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	)	OF COLLATERAL ESTOPPEL
vs.	)	
	)	
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2 1. DEFENDANT GERALD ARMSTRONG hereby requests the Court  
3 to take judicial notice of the entire file of Church of  
4 Scientology v. Armstrong, Case No. C420153, affirmed on appeal,  
5 232 Cal.App.3d 1060. In particular, the Court is requested to  
6 take judicial notice of all factual and legal findings, by the  
7 Court in the December 23, 1992 transcript of the ruling on  
8 Scientology's request for injunctive relief against Defendant  
9 Armstrong (Exh. F to the Opposition to Exparte Application to  
10 Extend T.R.O.). In particular, Defendant asks judicial notice  
11 of the following finding:

12 "And I make sure that it is the kind of clear  
13 and concise order that can be the subject of a  
14 contempt proceeding. So my belief is Judge  
15 Breckenridge, being a very careful Judge,  
16 follows about the same practice and if he had  
17 been presented with the whole agreement and  
18 if he had been asked to order its performance,  
19 he would have dug his feet in because that is  
20 one of the -- I have seen -- I can't say --  
21 I'll say one of the most ambiguous, one-sided  
22 agreements I have ever read. And I would not  
23 have ordered the enforcement of hardly any of  
24 the terms had I been asked to, even on the  
25 threat that, okay, the case is not settled.

19 I know we like to settle cases. But we don't  
20 want to settle cases and, in effect, prostrate  
21 the court system into making an order which is  
22 not fair or in the public interest.

22 So basically, I have to conclude based on the  
23 record that there was no order; simply, he  
24 wasn't presented the order. He was not asked  
25 to order its performance. He didn't order its  
26 performance (Exh. F, p. 52)."

25 2. Defendant further requests the Court to apply the law  
26 of collateral estoppel to all factual and legal findings  
27 contained in the December 23, 1992 ruling indicated above.  
28 Monterey Club Mtg. Ass'n. v. Morgan, 230 Cal.App.3d 1465, 281  
Cal.Rptr. 880 (Dismissal and/or abandonment is on the merits and

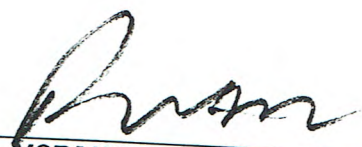
1 parties are bound by the same.); Brown v. Rahman, 231 Cal.App.3d  
2 1458, (Rules apply to findings necessary to judgment, and not  
3 just the judgment.); Cresino v. Fire Insurance Exchange, 215  
4 Cal.App.3d, 814, 264 C.R. 30; Torrey Pines Bank v. Superior  
5 Court, 216 Cal.App.3d, 813, 265 C.R. 217 (A voluntary dismissal  
6 prevents re-litigating the same issues as an affirmative defense  
7 brought in another action.); Lewis v. County of Sacramento, 218  
8 Cal.App.3d 214 (Federal finding as to fault binding on subsequent  
9 Workman's Compensation claim); Interim-insurance Exchange of the  
10 Automobile Club of Southern Cal. v. Superior Court, 209 CA 3rd  
11 177, 257 CR 37, (Collateral estoppel applies to issues litigated  
12 and that could have been litigated.); Rymer v. Hagler, 211  
13 Cal.App.3d. 1171, 260 Cal Rptr. 76 (Collateral estoppel applies  
14 when the issue is litigated even though no judgment.); Barker v.  
15 Hull, 236 C.R. 285 (Plaintiff's action to set aside a default was  
16 collaterally estopped because issues were raised and denied in  
17 motion filed in the underlying case to set aside the default.);  
18 Tushinsky v. Arnold, 195 Cal.App.3d 666 (Jury made finding that  
19 defendant had not believed the charges she prosecuted against the  
20 plaintiff and found her guilty of malicious prosecution;  
21 therefore, she could sue her attorney claiming she was relying  
22 on that advice since the earlier trial litigated found she did  
23 not believe the truth of the charges); Imen v. Glassford, 201  
24 Cal.App. 898, 247 C.R. 514 (Issues decided in administrative  
25 hearing are binding in other litigation).

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Respectfully submitted,  
Date: May 10, 1992

  
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PAUL MORANTZ and  
FORD GREENE  
Attorneys for Defendant

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PROOF OF SERVICE BY MAIL

I am a resident of Los Angeles County, am over the age of eighteen, and not a party to the herein action. My business address is P.O. Box 511, Pacific Palisades, California 90272.

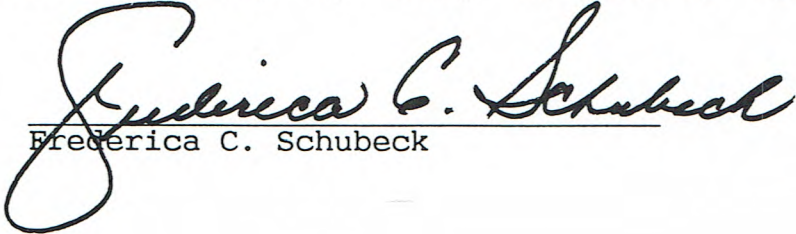
On May 6, 1992, I served the within Request for Judicial Notice and Application of Collateral Estoppel on the parties by placing a copy of the same in a sealed envelope with postage thereon and placed the same in the United States mail at Pacific Palisades address as follows:

Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO  
235 Montgomery Street  
Suite 450  
San Francisco, CA 94104

Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Boulevard  
Suite 2000  
Hollywood, CA 90028

Graham E. Berry  
LEWIS, D'AMATO, BRISBOIS & BISGAARD  
221 North Figueroa Street  
Suite 1200  
Los Angeles, CA 90012

I declare that the above is true under the penalty of perjury. Executed on May 6, 1992, at Pacific Palisades, California.

  
Frederica C. Schubeck